

MASTER APPLICATION

CANYON COUNTY DEVELOPMENT SERVICES DEPARTMENT

111 North 11th Avenue, #140, Caldwell, ID 83605

www.canyonco.org/dsd.aspx Phone: 208-454-7458 Fax: 208-454-6633



PROPERTY OWNER	OWNER NAME: <u>EW Real Estate, LLC</u>
	MAILING ADDRESS: <u>258 Union Ave. Los Gatos, CA 95032</u>
	PHONE: [REDACTED]
I consent to this application and allow DSD staff / Commissioners to enter the property for site inspections. If owner(s) are a business entity, please include business documents, including those that indicate the person(s) who are eligible to sign. Signature: <u>[Signature]</u> Date: <u>12/27/22</u>	
(AGENT) ARCHITECT ENGINEER BUILDER	CONTACT NAME: <u>Todd Lakey</u>
	COMPANY NAME: <u>Borton-Lakey Law</u>
	MAILING ADDRESS: <u>141 E Carlton Ave, Meridian, ID 83642</u>
	PHONE: <u>208-908-4415</u> EMAIL: <u>todd@borton-lakey.com</u>
SITE INFO	STREET ADDRESS: <u>13748 Sunnyslope Rd., Caldwell, ID</u>
	PARCEL #: <u>R33563010</u> LOT SIZE/AREA:
	LOT: BLOCK: SUBDIVISION:
	QUARTER: SECTION: <u>26</u> TOWNSHIP: <u>3N</u> RANGE: <u>4W</u>
	ZONING DISTRICT: <u>A</u> FLOODZONE (YES/NO):
HEARING LEVEL APPS	<input type="checkbox"/> CONDITIONAL USE <input type="checkbox"/> COMP PLAN AMENDMENT <input type="checkbox"/> CONDITIONAL REZONE
	<input type="checkbox"/> ZONING AMENDMENT (REZONE) <input type="checkbox"/> DEV. AGREEMENT MODIFICATION <input type="checkbox"/> VARIANCE > 33%
	<input type="checkbox"/> MINOR REPLAT <input type="checkbox"/> VACATION <input checked="" type="checkbox"/> APPEAL
	<input type="checkbox"/> SHORT PLAT SUBDIVISION <input type="checkbox"/> PRELIMINARY PLAT SUBDIVISION <input type="checkbox"/> FINAL PLAT SUBDIVISION
DIRECTORS DECISION APPS	<input type="checkbox"/> ADMINISTRATIVE LAND DIVISION <input type="checkbox"/> EASEMENT REDUCTION <input type="checkbox"/> SIGN PERMIT
	<input type="checkbox"/> PROPERTY BOUNDARY ADJUSTMENT <input type="checkbox"/> HOME BUSINESS <input type="checkbox"/> VARIANCE 33% >
	<input type="checkbox"/> PRIVATE ROAD NAME <input type="checkbox"/> TEMPORARY USE <input type="checkbox"/> DAY CARE
	<input type="checkbox"/> OTHER
CASE NUMBER: <u>CU2022-0034-APL</u> DATE RECEIVED: <u>12-29-22</u>	
RECEIVED BY: <u>12-29-22</u> APPLICATION FEE: <u>600.00</u> <input checked="" type="checkbox"/> CK <input type="checkbox"/> MO <input type="checkbox"/> CC <input type="checkbox"/> CASH	

BORTON - LAKEY

LAW AND POLICY

141 E. CARLTON AVE., MERIDIAN, IDAHO 83642

(208) 908-4415 (OFFICE) (208) 493-4610 (FAX)

December 28, 2022

Canyon County Development Services
111 North 11th Ave., #140
Caldwell, ID 83605

Re: Appeal of Planning and Zoning Commission Decision - Conditional Use Permit EW Real Estate CU2022-0034.

Dear Development Services,

I am submitting this appeal of the Planning and Zoning Commission's denial of EW Real Estate's ("EW") application for a conditional use permit for an agri-tourism oriented events facility.

Our application and the staff report recommending approval demonstrate that the application is strongly supported by the Canyon County Comprehensive Plan. The Planning and Zoning Commission also acknowledged in their findings that the request strongly conforms with the comprehensive plan. Additionally, the application also meets all other criteria for approval of a conditional use permit under the zoning ordinance. Staff recognized that the application conforms with the comprehensive plan and the zoning ordinance criteria in their analysis and recommendation of approval. I will address the conditional use permit criteria under the zoning ordinance where the Planning and Zoning Commission made incorrect determinations.

1. The event facility as proposed and conditioned in the staff report will not negatively change the essential character of the area or be injurious to other property in the immediate vicinity.

The comprehensive plan is a significant component in determining the character of the area. It has been previously determined as evidenced in the comprehensive plan that the area is planned for agritourism uses and as noted in the staff report and in our application materials this application conforms strongly with the comprehensive plan. The area is intended for this type of use; that is a part of the character of the area.

We recognize that this proposed use as well as any new proposed use in the future will be a change to some existing uses in the immediate area, but the change as contemplated in the comprehensive plan will be a net positive and not a negative change because of the benefits the facility will provide the county, ag operators, business owners and the many others that will enjoy events in the area. As staff noted in their report "As proposed and conditioned, the agritourism-oriented special events facility will enhance agritourism and showcase the Sunny Slope region to people visiting the area. The applicant is proposing to showcase wine from local wineries at their wine-tasting pavilion. with an emphasis on the wineries that do not have a tasting room to be able to showcase their wine. The applicant is also proposing to have a cidery on the site that will operate in conjunction with the Symms Fruit Ranch to promote agritourism in the area. The applicant is also proposing to have concessions served on-site and [there] will be permanent concessions serving and farm-to-fork food during the events."

The existing main uses in the overall Sunnyslope area are primarily agriculture and this proposed use will support other ag uses in the area. This agricultural area is recognized by the county, the state of Idaho and nationally as an Agritourism area. The property is immediately adjacent and has primary access to State Highway 55. The Highway 55 corridor is an excellent location for commercial uses that support the agricultural uses and Agritourism in the area. This proposed Agritourism oriented special event facility supports and strengthens the existing agricultural activities in the area. The site is properly located adjacent to State Highway 55 which will allow most traffic from the property to access Highway 55 and then disperse throughout the area. The subject property is primarily surrounded by other Symms properties and operations. The parcels where the project is proposed have been used by Symms in the past but are currently unproductive orchards. EW has and will continue during the design process to provide all necessary studies and improvements to demonstrate mitigation of potential impacts associated with the facility have been addressed. Amplified sound will be directed towards the surrounding Symms operations. Exterior lighting will be shielded and directed downward, away from other commercial and residential uses in the area. All traffic mitigation measures required by ITD and the Highway District will be in place prior to commencing operations.

The only expert evidence submitted regarding sound came from the Applicant. The sound test that was performed was conducted by local individuals with concert experience. The sound test that was provided was appropriate at this stage of the design process to determine sound levels. Once approved, the actual design and layout of the facility on the site will include further design studies by sound engineers to determine appropriate design for the facility. The Applicants have extensive experience in managing these types of venues. The evidence in the record demonstrates that the applicant's operations and management do not significantly and negatively impact the surrounding areas. Their operations have specific sound rules that are strictly monitored and enforced by the applicant which is proposed for this facility as well.

Staff stated in their report "The proposal; would introduce a new use to the area. Although the use would generate traffic and may impact farming operations, the use as proposed would benefit farming operations to allow for more agri-tourism to support operations." Staff also noted that "conditions could be added to the proposal to ensure

that the sites development in consistent with the area's character." Staff then concluded "The general area is surrounded by active agriculture and homesites with a rural setting and character, including associated noises, smells, and agricultural-related impacts. Impacts from the proposed uses such as traffic, noise, and light obstruction shall be mitigated through appropriate conditions of approval. (Conditions 6, 9, 10, 13, 15a, 15b)." As previously stated, the proposed new facilities although different from the current existing uses, are consistent with the comprehensive plan and the future vision for the area. If conditioned properly, the new facilities will have a very positive impact on the surrounding area.

The applicants submitted a petition specific to this application which contained many signatures from those in the area that support the application and feel it will be a positive addition to the area.

There are other commercial type uses along Highway 55 in the vicinity of the subject property and this proposed use is one that uniquely supports the current and future agricultural operations and commercial uses in the area. The Symms have their main packing and processing facilities in immediate vicinity along highway 55. These agricultural buildings and uses by the Symms will not be negatively impacted and by their nature have very comparable impacts to commercial uses and some industrial uses. We anticipate that additional uses that support Ag operations, Agritourism and the sale and use of local Ag commodities and products will flourish and grow along this Highway 55 transportation corridor and this use will support that growth. The Symms understand agri-tourism and the need to do something to support ag in the area and ag on their own other parcels in the area by using their non-prime land for uses that support the rest of their viable agricultural and operations on their properties in the Sunnyslope area. This use will strengthen the ability of ag producers like the Symms and others to be able to continue their agricultural uses in the area.

Staff also noted that "This use may generate traffic on Lowell Road and Hwy 55/Sunny Slope Road. Although this area is not a high-density populated area, there are active agricultural operations in the vicinity of the subject parcel. More traffic in the area will affect the movement of farm equipment. Traffic mitigation measures can be implemented to address the concern. The use will also generate noise and lighting. However, as conditioned, potential impacts to surrounding uses near the proposed facility will be reduced." The Applicant is willing to be subject to the conditions of approval noted in the staff report which addresses potential impacts and helps ensure this will not be a negative change to the area.

2. There will not be undue interference with existing or future traffic patterns. The proposal will add traffic to the area but it is located on a major transportation corridor in the 5 lane Highway 55. It is important to note that the traffic impact from the facility is not an everyday event. The impacts will be for a relatively small number of days, normally for evening events and therefore the facility itself has limited impacts on the overall traffic patterns on a daily basis. This is where this type of event facility should be located. In their analysis staff noted that "This use may generate traffic on Lowell Road and Hwy 55/Sunny Slope Road. Although this area is not a high-density

populated area, there are active agricultural operations in the vicinity of the subject parcel. More traffic in the area will affect the movement of farm equipment. Traffic mitigation measures can be implemented to address the concern." Most traffic will go on to highway 55 and will not impact agricultural uses. The applicant will make the road improvements including turn lanes noted in the traffic study as required by the highway district and ITD. They will also contribute their proportionate share to offsite improvements as required by ITD.

The Applicant will comply with the requirements of the highway district and ITD. The applicants have extensive experience managing this type of facility and handling and directing the traffic before and after an event. The letter from the City Manager for the city of Saratoga which is near one of their other facilities supports this fact. Staff summarized this letter in their analysis as follows: "Mr. Lindsay sent in a letter in favor of the proposed use. He stated that the applicant has been successfully running the same type of use in the city of Saratoga. He explains the local businesses in the surrounding area of the applicant's existing concert venue in Saratoga have benefited from the venue and have seen an approximate 35% increase in annual revenue directly to the visitation generated from the venue. The venue is surrounded by residential properties and the additional traffic generated from the venue has not been a significant issue. Mr. Lindsay stated he has worked with a variety of business owners and the applicant, owners of the venue, have been a pleasure to work with and he "appreciates their honesty and integrity in working with the community to solve issues in a timely and responsive manner."

Managing traffic from an event is a temporary inconvenience that only impacts a comparatively very limited window of time and in this case only during a limited portion of the year. We have all been to a concert or an event where we expect to wait some additional time for the event and this does not unduly impact traffic overall. The question is whether the impact is "undue". This additional impact and manageable temporary inconvenience are well worth the other benefits to the county and the ag and other business owners in the county and in the area. The community will reap the benefit of the applicants' improvements in exchange for a very limited impact on the overall roads and highways.

3. Essential Services will be provided for the proposed use and will not be negatively impacted or require additional public funding. There were no negative responses or concerns expressed by service providers. The Marsing Fire District facility is located in nearby Marsing which is a short easy trip down Highway 55. The fire district is a volunteer district but the most credible impartial testimony came from an employee of the city of Marsing who testified that the response time was not long or undue for this site in such close proximity to the Fire District facilities. As a follow-up to that testimony, the applicant contacted the Marsing Fire District and asked for evidence as to the expectation for response times to the new facility. That documented evidence will be provided to support the anticipated emergency response times to the facility which aligns with the oral testimony of the employee of Marsing, while directly contradicting other oral testimony presented by surrounding neighbors. The Applicant's staff are also trained in first aid and the applicant is willing to have emergency medical

personnel at events if deemed necessary by the fire district or the county. Most patrons will be located outside which does not present a fire hazard. There are not a lot of buildings proposed as part of the facility but those that are on the site are commercial buildings and will be required to have sprinkler systems and meet commercial codes. These buildings are much safer from a fire perspective compared to residential or agricultural buildings in the area.

The planning and zoning commission incorrectly denied this application for an event facility that will benefit the county and ag and agri-tourism operations. The expertise of the applicants and compliance with the applicable conditions and requirements will mitigate potential impacts from the facility. We respectfully request that the county commissioners approve this application.

Sincerely,

BORTON-LAKEY LAW AND POLICY

A handwritten signature in blue ink, appearing to read "Todd M. Lakey", is written over the printed name. The signature is stylized with a large initial "T" and a long, sweeping underline.

Todd M. Lakey

Canyon County Development Services

111 N. 11th Ave. Room 310, Caldwell, ID 83605
(208) 454-7458

Building Division Email: buildinginfo@canyonco.org

Planning Division Email: zoninginfo@canyonco.org

Receipt Number: 77562

Date: 12/29/2022

Date Created: 12/29/2022

Receipt Type: Normal Receipt

Status: Active

Customer's Name: Borton-Lakey Law

Comments: CU2022-0034-APL

CHARGES

<u>Item Being Paid For:</u>	<u>Application Number:</u>	<u>Amount Paid:</u>	<u>Prevs Pymnts:</u>	<u>Unpaid Amnt:</u>
Planning - Any Decision Appealed to the Board	CU2022-0034-APL	\$600.00	\$0.00	\$0.00

Sub Total: \$600.00

Sales Tax: \$0.00

Total Charges: \$600.00

PAYMENTS

<u>Type of Payment:</u>	<u>Check/Ref Number:</u>	<u>Amount:</u>
Check	6160	\$600.00

Total Payments: \$600.00

ADJUSTMENTS

Receipt Balance: \$0.00